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WORKING WITH REAL ESTATE AGENTS

NOTE: Effective July 1, 2001, in every real estate sales transaction, a real estate agent shall, at first substantial contact directly with a prospective buyer or seller, provide the prospective buyer or seller with the following information [NC Real Estate Commission Rule 21 NCAC 58A. 0104(c)].

When buying or selling real estate, you may find it helpful to have a real estate agent assist you. Real estate agents can provide many useful services and work with you in different ways. In some real estate transactions, the agents work for the seller. In others, the seller and buyer may each have agents. And sometimes the same agents work for both the buyer and the seller. It is important for you to know whether an agent is working for you as **your** agent or simply working **with** you while acting as an agent of the other party.

This brochure addresses the various types of working relationships that may be available to you. It should help you decide which relationship you want to have with a real estate agent. It will also give you useful information about the various services real estate agents can provide buyers and sellers, and it will help explain how real estate agents are paid.

SELLERS

Seller's Agent

If you are selling real estate, you may want to "list" your property for sale with a real estate firm. If so, you will sign a "listing agreement" authorizing the firm and its agents to represent you in your dealings with buyers as your *seller's agent*. You may also be asked to allow agents from other firms to help find a buyer for your property.

Be sure to read and understand the listing agreement before you sign it.

Duties to Seller: The listing firm and its agents must . promote your best interests . be loyal to you . follow your lawful instructions . provide you with all material facts that could influence your decisions . use reasonable skill, care and diligence, and . account for all monies they handle for you. Once you have signed the listing agreement, the firm and its agents may not give any confidential information about you to prospective buyers or their agents without your permission so long as they represent you. But **until you sign the listing agreement, you should avoid telling the listing agent anything you would *not* want a buyer to know.**

Services and Compensation: To help you sell your property, the listing firm and its agents will offer to perform a number of services for you. These may include . helping you price your property . advertising and marketing your property . giving you all required property disclosure forms for you to complete . negotiating for you the best possible price and terms . reviewing all written offers with you and . otherwise promoting your interests.

For representing you and helping you sell your property, you will pay the listing firm a sales commission or fee. The listing agreement must state the amount or method for determining the commission or fee and whether you will allow the firm to share its commission with agents representing the buyer.

Dual Agent

You may even permit the listing firm and its agents to represent you **and** a buyer at the same time. This "dual agency relationship" is most likely to happen if an agent with your listing firm is working as a *buyer's agent* with someone who wants to purchase your property. If this occurs and you have not already agreed to a dual agency relationship in your listing agreement, your listing agent will ask you to sign a separate agreement or document permitting the agent to act as agent for both you and the buyer.

It may be difficult for a *dual agent* to advance the interests of both the buyer and seller. Nevertheless, a *dual agent* must treat buyers and sellers fairly and equally. Although the *dual agent* owes them the same duties, buyers and sellers can prohibit *dual agents* from divulging **certain** confidential information about them to the other party.

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Some firms also offer a form of dual agency called "designated agency" where one agent in the firm represents the seller and another agent represents the buyer. This option (when available) may allow each "designated agent" to more fully represent each party.

If you choose the "dual agency" option, remember that since a dual agent's loyalty is divided between parties with competing interests, it is especially important that you have a clear understanding of . what your relationship is with the *dual agent* and . what the agent will be doing for you in the transaction.

BUYERS

When buying real estate, you may have several choices as to how you want a real estate firm and its agents to work with you. For example, you may want them to represent only you (as a **buyer's agent**). You may be willing for them to represent both you and the seller at the same time (as a **dual agent**). Or you may agree to let them represent only the seller (**seller's agent** or **subagent**). Some agents will offer you a choice of these services. Others may not.

Buyer's Agent

Duties to Buyer: If the real estate firm and its agents represent you, they must . promote your best interests . be loyal to you . follow your lawful instructions . provide you with all material facts that could influence your decisions . use reasonable skill, care and diligence, and . account for all monies they handle for you. Once you have agreed (either orally or in writing) for the firm and its agents to be your *buyer's agent*, they may not give any confidential information about you to sellers or their agents without your permission so long as they represent you. But **until you make this agreement with your buyer's agent, you should avoid telling the agent anything you would not want a seller to know.**

Unwritten Agreements: To make sure that you and the real estate firm have a clear understanding of what your relationship will be and what the firm will do for you, you may want to have a written agreement. However, some firms may be willing to represent and assist you for a time as a *buyer's agent* without a written agreement. But if you decide to make an offer to purchase a particular property, the agent must obtain a written agency agreement. If you do not sign it, the agent can no longer represent and assist you and is no longer required to keep information about you confidential. Furthermore, if you later purchase the property through an agent with another firm, the agent who first showed you the property may seek compensation from the other firm.

Be sure to read and understand any agency agreement before you sign it.

Services and Compensation: Whether you have a written or unwritten agreement, a *buyer's agent* will perform a number of services for you. These may include helping you . find a suitable property . arrange financing . learn more about the property and . otherwise promote your best interests. If you have a written agency agreement, the agent can also help you prepare and submit a **written** offer to the seller.

A *buyer's agent* can be compensated in different ways. For example, you can pay the agent out of your own pocket. Or the agent may seek compensation from the seller or listing agent first, but require you to pay if the listing agent refuses. Whatever the case, be sure your compensation arrangement with your *buyer's agent* is spelled out in a buyer agency agreement before you make an offer to purchase property and that you carefully read and understand the compensation provision.

Dual Agent

You may permit an agent or firm to represent you **and** the seller at the same time. This "dual agency relationship" is most likely to happen if you become interested in a property listed with your *buyer's agent* or the agent's firm. If this occurs and you have not already agreed to a dual agency relationship in your (written or oral) *buyer agency* agreement, your *buyer's agent* will ask you to sign a separate agreement or document permitting him or her to act as agent for both you and the seller. It may be difficult for a dual agent to advance the interests of both the buyer and seller. Nevertheless, a *dual agent* must treat buyers and sellers fairly and equally. Although the *dual agent* owes them the same duties, buyers and sellers can prohibit *dual agents* from divulging **certain** confidential information about them to the other party.

Some firms also offer a form of dual agency called "designated agency" where one agent in the firm represents the seller and another agent represents the buyer. This option (when available) may allow each "designated agent" to more fully represent each party.

If you choose the "dual agency" option, remember that since a *dual agent's* loyalty is divided between parties with competing interests, it is especially important that you have a clear understanding of . what your relationship is with the

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dual agent and . what the agent will be doing for you in the transaction. This can best be accomplished by putting the agreement in writing at the earliest possible time.

Seller's Agent Working With a Buyer

If the real estate agent or firm that you contact does not offer buyer agency or you do not want them to act as your *buyer agent*, you can still work with the firm and its agents. However, they will be acting as the *seller's agent* (or "subagent"). The agent can still help you find and purchase property and provide many of the same services as a *buyer's agent*. The agent must be fair with you and provide you with any "material facts" (such as a leaky roof) about properties.

But remember, the agent represents the seller - not you - and therefore must try to obtain for the seller the best possible price and terms for the seller's property. Furthermore, a *seller's agent* is required to give the seller any information about you (even personal, financial or confidential information) that would help the seller in the sale of his or her property. Agents must tell you in writing if they are sellers' agents before you say anything that can help the seller. But **until you are sure that an agent is not a seller's agent, you should avoid saying anything you do *not* want a seller to know.**

Sellers ' agents are compensated by the sellers.

WORKING WITH REAL ESTATE AGENTS

This is not a contract

By signing, I acknowledge that the agent named below furnished a copy of this brochure and reviewed it with me.

Seller_____ Date _____

_____

Firm Name

_____ _____

Agent Name and License Number

Disclosure of Seller Subagency

☐ *When showing you property and assisting you in the purchase of a property, the above agent and firm will represent the SELLER. For more information, see "Seller's Agent Working with a Buyer" in the brochure.*

Buyer's Initials Acknowledging Disclosure:_____

Agents must retain this acknowledgment for their files.

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